

HOUSE BILL 403

C2

0lr0136

By: **Chair, Economic Matters Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: January 29, 2010

Assigned to: Economic Matters

Committee Report: Favorable

House action: Adopted

Read second time: February 24, 2010

CHAPTER _____

1 AN ACT concerning

2 **Office of Cemetery Oversight – Preneed Trust Account – Underfunding**

3 FOR the purpose of authorizing the Director of the Office of Cemetery Oversight to
4 require the correction of any underfunding, including interest, due to a preneed
5 trust account.

6 BY repealing and reenacting, with amendments,
7 Article – Business Regulation
8 Section 5–710
9 Annotated Code of Maryland
10 (2004 Replacement Volume and 2009 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article – Business Regulation**

14 5–710.

15 (a) (1) Each seller shall keep detailed records of all preneed burial
16 contracts and specific funds.

17 (2) The records of each seller and of each trustee appointed by the
18 seller are subject to examination by:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



- 1 (i) the Director;
- 2 (ii) the Attorney General or an authorized representative of the
3 Attorney General; and
- 4 (iii) the State's Attorney for the county where the seller does
5 business.

6 (b) (1) Each seller subject to the trust requirements of this subtitle shall
7 submit a report to the Director within 120 days after the close of each calendar or
8 other fiscal year chosen by the seller.

9 (2) The report shall:

- 10 (i) be on the form that the Director requires;
- 11 (ii) be certified by a certified public accountant retained by the
12 seller;
- 13 (iii) be accompanied by a trustee's summary statement of assets;
- 14 (iv) be accompanied by a fee of \$25; and
- 15 (v) include:
- 16 1. the name of the seller;
- 17 2. each location of the seller;
- 18 3. the amount of money that the seller received during
19 that year that is subject to the trust requirements of this subtitle;
- 20 4. the amount of money actually deposited into trust
21 accounts in that year;
- 22 5. the amount of money required to be disbursed from
23 the trust accounts in that year;
- 24 6. the amount of money actually disbursed from the
25 trust accounts in that year; and
- 26 7. the name and address of the trustee.

27 (3) (i) A seller of preneed goods or preneed services that sells its
28 business, files a petition in bankruptcy, or ceases to operate shall provide written
29 notice within 15 days:

1 1. to the Director, detailing the changes and the
2 arrangements the seller has made for carrying out the preneed burial contracts and
3 the disbursement of any moneys held in an escrow or trust account; and

4 2. to each buyer of a preneed burial contract, advising
5 the buyer of the buyer's options under State law in regard to the preneed contract.

6 (ii) Nothing in this paragraph exempts a seller of preneed goods
7 or services that sells its business, files a petition in bankruptcy, or ceases to operate
8 from filing the annual report required under this section.

9 (c) A seller of a preneed burial contract shall provide each buyer or
10 prospective buyer with a general price list for the buyer or prospective buyer to keep
11 which shall include:

12 (1) specific prices for:

13 (i) ground opening and closing;

14 (ii) extra depth interment;

15 (iii) interment of cremated remains; and

16 (iv) mausoleum entombment; and

17 (2) general price ranges for burial space or preneed goods.

18 (d) A seller of a preneed burial contract shall disclose to the buyer:

19 (1) all goods and services that are reasonably expected to be required
20 at the time of need that are not included in the preneed burial contract;

21 (2) the buyer's cancellation and refund rights under § 5-709 of this
22 subtitle;

23 (3) the person responsible for installation of the goods sold and any
24 warranties for the goods sold; and

25 (4) if the preneed contract provides for goods or services to be
26 delivered or performed before death:

27 (i) that interest or finance charges may be imposed;

28 (ii) that interest or finance charges are not allowed on other
29 preneed burial contracts that do not provide for goods or services to be delivered or
30 performed before death;

- 1 (iii) the manner of delivery of goods including where the goods
- 2 are stored; and
- 3 (iv) the buyer's remedy if delivered goods are damaged or
- 4 destroyed.

5 **(E) THE DIRECTOR MAY REQUIRE A SELLER TO CORRECT ANY**
 6 **UNDERFUNDING, INCLUDING INTEREST, DUE TO THE PRENEED TRUST**
 7 **ACCOUNT.**

8 **[(e)] (F)** The Director may adopt regulations:

- 9 (1) to administer this section; and
- 10 (2) for determining whether sellers are complying with this subtitle.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 12 October 1, 2010.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.